

07/12/2023

Judge Teresa H Pearson

09:00 22-31873-thp11

Blue Moon Property Group, LLC - DOUGLAS R RICKS
db
Lake Oswego Corporation - cr BRYAN GLOVER

Matter: Objection to claim 2 of Lake Oswego Corporation Filed by Debtor Blue Moon Property Group, LLC (RICKS, DOUGLAS) Doc# 63

Additional Appearances: Ronald Sapp, principal for debtor.

Summary of Proceedings

Court issued a partial oral ruling, finding that the claim of Lake Oswego Corporation should be allowed. After reviewing the recorded documents in detail, the court concluded that Lake Privileges are an easement appurtenant, where the dominant estate is the property formerly owned by the debtor and the subservient estate is the property held by Lake Oswego Corporation. Although the Lake Privileges run with the land, the buyer could not exercise Lake Privileges if the assessments were unpaid. Rather than saddling the buyer with the obligation to pay the unpaid assessments, as part of the sale process the debtor and Lake Oswego Corporate had agreed that debtor would provide a reserve from closing of funds that could be used to pay the assessment, if the court determined that payment of all of the unpaid assessments was required to exercise Lake Privileges. The court has so decided.

Still to be decided is the exact amount of the claim, as it appeared from the prior hearing that some portion of the assessments may have been paid after the claim was filed. Mr. Glover must file a declaration of his client by July 28, 2023, regarding the current amount due. Debtor, either through Mr. Ricks or new counsel, must file any response by August 11, 2023.

Court will hold a hearing on August 15, 2023, at 2:00 p.m. by video (to be noticed out separately) to take up the declaration and response and see if any disputes of fact remain, and to schedule any further proceedings that may be necessary to decide those disputes.

Regarding the motion to withdraw as counsel for debtor filed by Mr. Ricks this morning (ECF No. 127), the court asked the debtor to have any new counsel it retains make a formal appearance on the docket at counsel's earliest convenience, so that Mr. Glover has a contact person with whom to discuss the remaining issues regarding the amount due on the claim.

Order to be prepared by: Clerk's Office Chambers Other:

Minute Order: